



ENERGY AND ENVIRONMENT CABINET

Steven L. Beshear
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Update on House Bill 765 Implementation

During the 2008 regular session, the Kentucky General Assembly passed House Bill (HB) 765, a measure that includes a number of changes to the current methamphetamine lab cleanup law codified under KRS 224.01-410. HB 765 was signed by Governor Steve Beshear on April 24 and becomes effective on July 15.

Please see a short summary below highlighting the changes to the law and how they may affect you whether you are a property owner, certified cleanup contractor or an interested citizen. Click on this link to view a complete copy of HB 765 as passed: <http://www.lrc.ky.gov/record/08RS/HB765.htm>

Highlights of HB 765

- Establishes definitions for terms including “contaminated property.” A contaminated property is any inhabitable property used for the manufacture of meth and assessed as containing meth contamination.
- Requires the Energy and Environmental Cabinet (EEC) to promulgate administrative regulations providing for decontamination standards for meth, meth precursors and related hazardous materials and sampling and testing standards for contaminated properties.
- Requires EEC to establish a “tiered response” system to address the level of decontamination services required for a contaminated property based on the degree of meth production and the degree of potential contamination resulting from meth production. There will be four tiers of cleanup response, from Tier 1 through Tier 4. Tier 1 properties are those with limited meth production and limited decontamination is required. A Tier 4 property is a mass production meth lab where large amounts of meth are produced and large volumes of wastes were generated. Requires all properties to be decontaminated to at least a Tier 1 level.
- Amends current law by requiring applicants who are applying to become certified contractors to post financial assurance in the amount of \$100,000 for a Tier 1, 2, or 3 cleanup; and \$250,000 for a Tier 4 cleanup. It “grandfathers in” current contractors who have been certified by EEC.
- Allows state or local law enforcement to post a meth contamination notice at the request of the state or local health departments. The Department for Public Health is to promulgate regulations addressing posting and removal of notices.
- Establishes an appeal process with hearing for homeowners who own property that has been posted.

- Unless the property is properly decontaminated, the law requires owner to disclose in writing to any potential lessor, tenant, or buyer that the property is contaminated with meth. The Department for Public Health is required to promulgate regulations setting forth the disclosure requirements.
- Establishes that any person who removes a notice of meth contamination is guilty of a Class A misdemeanor.
- Establishes that any person who leases, rents, or sells a property that has not been decontaminated without giving written notice is guilty of a Class D felony.

The biggest change for certified contractors is that the contaminated properties will be assessed first by Kentucky State Police or other law enforcement. Based on evidence and observations made at the scene documented by the assessment forms, law enforcement will determine if the property is contaminated, and if so, will recommend the property be assigned one of the four cleanup tiers.

EEC's Kentucky Division of Waste Management (KDWM) is working with the Kentucky State Police and the Department for Public Health on developing the Tier Cleanup Response Assessment forms required by HB 765. KDWM is also working on decontamination requirements for the different cleanup response tiers and modifying the cleanup guidance document. The forms and decontamination requirements should be available on the division's Web page – waste.ky.gov – by July 15.

KDWM is currently drafting regulations to implement the provisions of HB 765. The regulations are anticipated to be submitted to the Legislative Research Commission in the fall 2008. If promulgated, the regulations would not take effect until January or February 2009.

Our cabinet has recently been reorganized by Executive Order. Our cabinet name has changed from the Environmental and Public Protection Cabinet to the Energy and Environment Cabinet (EEC). Go to the new cabinet's homepage – <http://www.eppc.ky.gov/> – for more information on the organizational changes. The reorganization did not affect the oversight of the meth cleanup contractors' program. We are still in the Department for Environmental Protection, Division of Waste Management, Superfund Branch.

Please contact Kim Leingang, Division of Waste Management at 502-564-6716, Kim.Leingang@ky.gov, with any questions regarding the changes.

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